

### **Amendment to the Specification**

Please replace the paragraph under the heading "DEPOSITS" on page 48 with the following:

Applicant(s) ~~will make~~ have made a deposit of at least 2500 seeds of Soybean Variety XB09J04 with the American Type Culture Collection (ATCC), Manassas, VA 20110 USA, ATCC Deposit No. ~~[[ ]]~~ PTA-6439. The seeds deposited with the ATCC on ~~[[ ]]~~ December 15, 2004 ~~will be were~~ taken from the deposit maintained by Pioneer Hi-Bred International, Inc., ~~800 Capital Square, 400 Locust Street, Des Moines, Iowa 50309-2340~~ 7250 NW 62nd Avenue, Johnston, Iowa 50131 since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make the deposit available to the public pursuant to 37 CFR 1.808. This deposit of Soybean Variety XB09J04 will be maintained in the ATCC depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant(s) have or will satisfy all the requirements of 37 C.F.R. §§1.801 - 1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.). U.S. Plant Variety Protection of Soybean Variety XB09J04 has been applied for under Application No. 200500070.